

AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: MAY 1, 2007

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

NEW BILL:

Bill No. 2007-14 – Prohibits unruly gatherings and establishes regulations and penalties with respect thereto. Sponsored by: Councilwoman Lois Tarkanian and Councilman Gary Reese

Fiscal Impact

☒

No Impact

☐

Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will prohibit unruly gatherings and provide regulations and penalties with respect thereto. Such gatherings include neighborhood parties and other gatherings in residential areas that cause a disturbance of the quiet enjoyment of private or public property. Typical gatherings of this type involve the consumption of alcoholic beverages by minors and create the need for emergency response services. The bill is intended to reduce the costs of providing such services by providing for civil penalties and the recovery of costs.

RECOMMENDATION:

This bill was held in abeyance by the 4/3/2007 Recommending Committee to 5/1/2007 Recommending Committee meeting for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

1. Bill No. 2007-14
2. Business Impact Statement
3. Submitted at meeting - copy of flyer on Tucson's Unruly Gathering Ordinance; Ventura County Model Social Host Liability Ordinance; Title 9 of Daly City, CA; Santa Cruz, CA, Ordinance No. 2005-20 and web pages from Tucson and City of San Mateo by staff, letter by Juanita Clark of Charleston Neighborhood Preservation and written comments by Tom McGowan
4. Submitted after meeting - Petition by the Charleston Neighborhood Preservation

Motion made by LOIS TARKANIAN to Table

Passed For: 2; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

LOIS TARKANIAN, STEVEN D. ROSS; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

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Minutes:

COUNCILMAN ROSS declared the Public Hearing open.

COUNCILWOMAN TARKANIAN indicated her desire to table this matter, as she would like the language polished, in order to make it as effective as possible. She noted that similar ordinances are in effect in cities throughout the country. Although there has been some criticism, especially in the 5/1/2007 morning newspaper, her intent is to help residents as much as possible.

CITY ATTORNEY JERBIC explained that the 5/1/2007 morning newspaper in no way influenced the recommendation to table this matter, opining that the article only reflects a lack of knowledge of the City's intent with this bill. In fact, the bill is the result of concerns expressed by the Las Vegas Metropolitan Police Department (Metro) regarding unruly gatherings. It is not a criminal ordinance, but rather a civil one, for only residences, not commercial properties. It is mainly to address "party houses," where people are out of control, and the police has to come in, requiring a lot of public resources to get these types of situations under control. The individuals caught in these situations and in violation the first time will be "red tagged." If Metro has to respond, a citation could be issued for disturbing the peace. Also, Neighborhood Services could respond and issue a civil warning (a "red tag") indicating that such residence has been the place of an unruly gathering, the location has caused disturbance to neighbors and that it has to cease and desist. If within 180 days the conduct is repeated, a civil citation could then be issued, making the individual liable for a penalty of up to \$150 and reimbursement to Metro and the City for any cleaning-up costs. A second offense within 180 days would carry a penalty of \$300, and a third offense within 180 days would carry a penalty of \$500. The bill includes an appeal process, first to Neighborhood Services, and then to the City Council.

CITY ATTORNEY JERBIC then submitted five packets of documentation regarding unruly gatherings ordinances in other cities, some of which were used to craft Bill No. 2007-14. He noted that the purpose of implementing such an ordinance is to use it for home parties that repeatedly give cause for the police to respond.

COUNCILMAN ROSS remarked that the ordinance provides for a perfect opportunity to recover expenses generated by party houses and to free up police officers to be better used elsewhere.

JUANITA CLARK, representing Charleston Neighborhood Preservation, expressed concern about the language in the proposed bill not containing clear timelines for an appeal. She then read and submitted a letter from some of the members of Charleston Neighborhood Preservation requesting denial.

COUNCILWOMAN TARKANIAN assured MS. CLARK that she read the letter.

COUNCILMAN ROSS interjected and asked MS. CLARK to keep in mind that

COUNCILWOMAN TARKANIAN requested this matter be tabled to allow more time to work on some of the issues. He assured her that the City Attorney will review the letter she read and submitted, adding that, although other cities have enacted similar ordinances, the City Council wants the City's ordinance to be better and could never support violating the constituency's rights.

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COUNCILWOMAN TARKANIAN commented that this bill is the result of many phone calls and requests from residents that have been in very difficult situations to enact such an ordinance, because, currently, there is no other recourse. COUNCILMAN ROSS added that he has dealt with similar situations in Ward 6. There is definitely a problem, and it needs a solution.

TOM McGOWAN, Las Vegas resident, paraphrased his written comments, a copy of which is made a part of the minutes.

LEE ROLLAND, Staff Attorney, ACLU of Nevada, requested the opportunity to review the materials submitted by CITY ATTORNEY JERBIC, as well as to submit to him documentation, a copy of which was not submitted, with the ACLU's suggested language for consideration. She then expressed concern about the vagueness of Bill No. 2007-14, wherein an unruly gathering constitutes a gathering of two or more persons that causes the disturbance of the quiet enjoyment of any public or private property. This language is not limited or defined in anyway. But even the enumerated behavior is cause for concern, because it encompasses behavior that is non-criminal. For example, drinking in public is not against Las Vegas Municipal Code; residents are allowed to drink a beer on their front lawn. Under this bill, two people having a beer on the front lawn could be considered unruly. She reiterated that the entire definition of "any disturbance of quiet enjoyment of public or private property" is very expansive and leaves complete discretion to the enforcement officers. She requested the language be tightened up to target specific problematic behavior.

MS. ROLLAND noted that the ACLU does not have issue with the underlying intent, but rather with the ordinance being abused by residents with private disputes, because enforcement will be complaint driven. Surely, disturbing the peace ordinances currently apply and should address the behavior that prompted this bill. Lastly, she pointed out that the fact that other cities have similar laws already on the books does not dissuade the ACLU from thinking that this bill has problems.

CITY ATTORNEY JERBIC stated that the scenario cited of two people drinking a beer gives people an inflated sense of what people are trying to do in government to protect residents from party houses. A situation in which two people drinking a beer disturb the peace absolutely could trigger police action, but that could already be done under the disturbing the peace law, which can already be abused in residential disputes. This law merely allows the City to impose an additional civil penalty and to recover the cost of enforcement. He noted that he would be happy to review suggested language by the ACLU and that there are many ways to tighten laws, but never a way to please everyone. He felt comfortable with the language of 2007-14 as submitted.

COUNCILWOMAN TARKANIAN reiterated her desire to table this matter. She asked MS. ROLLAND, MS. CLARK and MR. McGOWAN to review the documentation submitted by CITY ATTORNEY JERBIC and to submit their written comments to the Council for inclusion.

MS. ROLLAND asked COUNCILWOMAN TARKANIAN if the law is intended to allow for civil penalties for criminal enforcement only, or if the City is looking to expand the definition to behavior that is not currently considered criminal, because the ACLU is mainly concerned with the areas that are not considered criminal. COUNCILWOMAN TARKANIAN answered that her intent is to help the residents. CITY ATTORNEY JERBIC indicated that the definition does not

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mirror the one in the disturbing the peace law. It is broader and encompasses more behavior, but it does not criminalize it; it merely allows the City to recover more costs by imposing more civil fines.

COUNCILWOMAN TARKANIAN noted that the "red tag" concept has worked so well for Neighborhood Services to enforce standards in neighborhoods. Hopefully, it will help residents that need help and cannot get the police to respond in a timely manner.

COUNCILMAN ROSS declared the Public Hearing closed.

